

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

RANDALL PARKER,

Defendant.

8:07CR259

ORDER

This matter is before the court on the defendant's second motion to continue trial [83]. Based solely upon defense counsel's professional representation that he is unable to try this case as scheduled because he now has "a conflicting pretrial setting on another matter in Texas," the case will be continued to December 11, 2007. This is a final continuance.

Turning to the defendant's motion for leave to file pretrial motions out of time [84], the court finds that the defendant has not shown good cause for this extension. The matters he apparently seeks to raise, i.e., the circumstances under which he made statements to law enforcement, were known to the defendant at least as of the time of his arraignment and could have been timely presented. In addition, the proposed Motion to Suppress [85], which states in its entirety,

Defendant, Randall Parker, requests that all statements made by him to any law enforcement officer be suppressed as they were not the result of a knowing, intentional, and voluntary waiver of his constitutional rights.

is deficient in that counsel has not filed any brief in support of the motion, as required by NECrimR 12.3(b)(1) and paragraph 4 of the case progression order entered on September 5, 2007 [36]. This motion will be stricken.

IT IS ORDERED:

1. The trial of this matter is continued to **December 11, 2007**. This is a final continuance.

2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this motion and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **November 16, 2007 and December 11, 2007**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act for the reason that counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

3. Defendant shall file an affidavit or declaration regarding speedy trial in accordance with NECrimR 12.1 and/or 12.3 no later than **November 20, 2007**.

4. Defendant's motion for leave to file pretrial motions out of time [84] is denied.

5. The untimely Motion to Suppress [85] is stricken from the record, as it was filed without permission of the court and does not comply with the court's prior order or the NECrimR 12.3(b)(1).

DATED November 16, 2007.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**